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Written statement* submitted by the International Indian Treaty Council (IITC), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[06 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Report of the open-ended meeting of indigenous peoples on the follow-up to the world conference on indigenous peoples focusing on op 28 and op 33 of the WCIP outcome document
March 3-5, 2015
Geneva, Switzerland

Report on the discussion on improving EMRIP's mandate and participation of indigenous people's representative institutions

The Asian Indigenous Peoples Pact, the International Indian Treaty Council, the National Congress of Australia's First People and the Sami Parliament of Norway hosted an open-ended meeting of Indigenous Peoples on 3 - 6 March 2015 in Geneva. The meeting brought together an ad-hoc group of representatives of Indigenous Peoples institutions and organizations from all seven regions to discuss the follow-up of the World Conference on Indigenous Peoples, in particular paragraphs 28 and 33 of the outcome document. The purpose of the meeting was to discuss informally about possible ways forward including potential options for further discussion in the regions.

I. Discussion on Improving the Mandate of the EMRIP

In reference to Operative Paragraph of the Outcome document from the World Conference on Indigenous Peoples which states, *"[w]e invite the Human Rights Council, taking into account the views of indigenous peoples, to review the mandates of its existing mechanisms, in particular the Expert Mechanism on the Rights of Indigenous Peoples, during the sixty-ninth session of the General Assembly, with a view to modifying and improving the Expert Mechanism on the Rights of Indigenous Peoples so that it more effectively promotes respect for the Declaration including by bettering assisting member states to monitor, evaluate and improve the achievement of the ends of the Declaration"*, Indigenous Peoples representatives attending the meeting from all 7 Indigenous regions made the following recommendations:

1. The Human Rights Council should initiate, preferably by resolution, the process of reviewing the mandate of EMRIP as called for in OP 28 of the Outcome Document of the World Conference on Indigenous Peoples, in a way which ensures the full and effective participation of Indigenous Peoples.

2. An improved EMRIP mandate should complement the mandates of the Special Rapporteur on the Rights of Indigenous Peoples and the Permanent Forum on Indigenous Issues to achieve the ends of the Declaration, and to collaborate and take actions on issues concerning Indigenous Peoples.

3. In addition, an improved EMRIP mandate must include:

(1) facilitating face to face dialogue between States and indigenous peoples' representatives, including possibly at the national level;

(2) providing technical assistance and advice to States, Indigenous Peoples and the private sector to overcome obstacles to implementing the Declaration;

(3) providing, upon request by states or indigenous peoples practical and technical advice to member States and Indigenous Peoples to prepare and monitor the implementation of achieving the ends of the Declaration, including the national implementation plans and legislative, policy and administrative measures;

(4) providing advice for the implementation of recommendations of UN human rights bodies for which there is substantial consensus between States and Indigenous Peoples;

(5) gathering, receiving, and considering information from all sources, including states, indigenous peoples and UN expert bodies and mandate holders, among others; preparing and disseminating reports and recommendations; carrying out country visits; issuing general observations relating to the rights of Indigenous Peoples and individuals;

sharing information about best practices; issuing interpretations of the provisions of the Declaration; and collaborating and taking joint action with other special mandate holders;

(6) seeking and receiving communications and other information from States and Indigenous Peoples on specific cases and matters of concern for the rights in the Declaration, including conducting thematic, country or case specific hearings with the participation of States and Indigenous Peoples addressing core issues of cross cutting relevance to the implementation of the Declaration;

(7) building the capacity of Indigenous Peoples to engage effectively with States and the United Nations, including technical assistance and facilitating issues and complaints being channeled more effectively to existing UN human rights mechanisms;

(8) contributing to the work of the Universal Periodic Review process and the Treaty Bodies, which have an existing role in ensuring states meet their obligations;

(9) making proposals to the Human Rights Council regarding gaps in existing standards or norms for the protection of Indigenous Peoples' human rights;

(10) undertaking studies and research at the request of Indigenous Peoples, States and the Human Rights Council, taking into accountsubmissions and proposals from States and Indigenous Peoples and providing expert advice and recommendations to the Council based on these studies;

(11) providing continuing follow up for key studies elaborated by the Working Group on Indigenous Populations, in particular the studies on Treaties, Agreements, and Constructive Arrangements and Indigenous Peoples' Permanent Sovereignty over Land and Natural Resources.

(12) recommending themes and assisting the Office of the High Commissioner of Human Rights to organize expert seminars addressing issues related to the rights of Indigenous Peoples based on identification of overarching themes and concerns presented by States and Indigenous Peoples;

(13) providing input to Working Group on Human Rights, Transnational Corporations and other Business Enterprises and other UN mechanisms and bodies regarding implementing the Rights of Indigenous Peoples; and

Structural Points

1. The EMRIP must be composed of independent experts with relevant expertise, capacity, and experience.

2. The process for selecting experts must include both states and Indigenous Peoples' representative institutions.

3. The EMRIP should have adequate financial and human resources to effectively fulfill its mandate.

4. The criteria for EMRIP members, as a whole, should be strengthened to require indigenous legal expertise, including judicial and/or Indigenous traditional legal expertise. Regional and gender balance should be taken into account.

5. The EMRIP should have at least ten days of meeting time each year, to include open, closed, and intercessional meetings.

II. Discussion on Participation

1. Consistent with the right of self-determination, we strongly recommend broad, full and effective participation in all bodies of the United Nations in terms of where Indigenous Peoples' representative institutions themselves determine that issues under discussion in those bodies and processes would affect their rights. Indigenous Peoples' representative institutions will determine which bodies and processes are relevant to their rights.

2. We emphasize the UN Declaration on the Rights of Indigenous Peoples as the minimum standard for Indigenous Peoples' participation, in particular Articles 3 and 18. In this regard, we also recall Articles 5, 6, 26 and 41.
3. The current rules for engagement are deficient for ensuring the full and effective participation of Indigenous Peoples' representative institutions in United Nations processes.
4. We recall Theme 2, paragraph 10 of the Alta Outcome Document, which calls for "*at a minimum, permanent observer status within the UN system enabling our direct participation through our own governments and parliaments. Our own governments include inter alia our traditional councils and authorities*". The focus and primary purpose of Operative Paragraph 33 is to find ways and means for these representative bodies to function under a new status allowing them to participate fully and effectively.
5. We recall the Report of the United Nations Secretary-General, "*Ways and Means of Promoting Participation at the United Nations of Indigenous Peoples' Representatives on Issues Affecting Them*", stating, "*[t]o the extent that it has been permitted to date,indigenous peoples' participation at the United Nations has been a positive experience. It has enabled indigenous peoples who had been historically excluded to work together peacefully and in partnership with States to advance their issues and rights. It has been a process of mutual trust-building, premised on equality and equity among stakeholders, and had led to fruitful outcomes and greater commitments by indigenous peoples, States and the United Nations system to strengthen recognition and respect for indigenous peoples' rights.*" [A/HRC/21/24].

Proposals for Further Discussion

1. A new category of Permanent Observer Status should be created for Indigenous Peoples' representative institutions and other representatives chosen by themselves in accordance with their own procedures.
2. There should be a new process and body for accrediting Indigenous Peoples' representative institutions. The General Assembly, with the full and effective participation of Indigenous Peoples' representative institutions, should create a new committee to carry out the accreditation process, taking into account regional differences.
3. Participation of Indigenous Peoples' representative institutions should include attending UN meetings and conferences, including country reviews by the Treaty Bodies and the Universal Periodic Review, submitting written statements, making oral statements and proposing agenda items; they should have priority in regard to seating and order of speaking and should have the same ability to submit written and oral statements and participate in drafting resolutions as member states.
4. Participation should be permitted in all bodies and agencies relevant to indigenous interests, as determined by Indigenous Peoples' representative institutions.
5. Indigenous Peoples' representatives from all regions should be able to fully participate in the process of accreditation, including determining criteria for accreditation and implementing an accreditation process.